

ORDINANCE NO. 06-09

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 106 OF THE CODE OF ORDINANCES
ENTITLED "PERFORMANCE STANDARDS" BY AMENDING
SECTION 106-52 TO ADJUST THE FACTORS FAVORING
AND DISFAVORING THE GRANTING OF AN EXCEPTION
TO THE PROHIBITION AGAINST OUTDOOR MERCHANDISE
DISPLAY IN THE HISTORIC DISTRICT; PROVIDING
FOR SEVERABILITY; PROVIDING FOR REPEAL OF
INCONSISTENT PROVISIONS; PROVIDING FOR AN
EFFECTIVE DATE

WHEREAS, the Key West Board of Adjustment has recommended changes to the Outdoor Merchandise Display Ordinance in order to clarify the application for exception process; and

WHEREAS, the Key West Planning Board at its regular meeting of February 16, 2006, recommended approval in light of the proposed amendment's consistency with the Key West Comprehensive Plan; and

WHEREAS, the City Commission finds that the proposed amendment would serve to protect the health, safety and welfare of the citizens of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That Section 106-52 of the Code of Ordinances is hereby amended as follows*:

Sec. 106-52. Exceptions.

Exceptions to section 106-51 may be granted by the board of adjustment as follows:

(1) Factors favoring the exception are as follows:

a. The location of the proposed exception, while outdoors, is an interior courtyard of a building or buildings, or is a space specifically designed and permitted for use by outdoor merchants.

a.b. The exception (for either the type of merchandise or the type of display) is compatible or in visual harmony with the character of the neighborhood. ~~visible at the locations (public places and rights-of-way) from which the exceptions can be seen.~~

b.c. The exception's visual incongruity with the historic character of the neighborhood is reduced by substantial setback from public places and rights-of-way.

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

~~e. Public use of public locations from which the exception can be seen is primarily made to gain access to the applicant's business.~~

(2) Factors disfavoring the exception are as follows:

a. Architecture contributing to the historical fabric or visual character of the neighborhood is obscured by the exception.

b. The location of the proposed exception abuts, with minimal setback, a street of the historic district, thus
tThe exception is visible from heavily used public places and rights-of-way.

c. The exception presents a hazard to public safety.

* * * *

Section 2. If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3. All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4. This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 4th day of April, 2006.

Read and passed on final reading at a regular meeting held this 2nd day of May, 2006.

Authenticated by the presiding officer and Clerk of the Commission on 3rd day of May, 2006.

Filed with the Clerk May 3, 2006.


MORGAN MCPHERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

**PLANNING BOARD RESOLUTION
NO. 2006-004**

**A RESOLUTION OF THE CITY OF KEY WEST
PLANNING BOARD RECOMMENDING APPROVAL OF A
PROPOSED AMENDMENT TO SECTION 106-52 OF THE
CODE OF ORDINANCES PERTAINING TO OUTDOOR
MECHANDISE DISPLAY IN THE HISTORIC DISTRICT;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, at its meeting of March 16, 2006, the Planning Board heard a proposed amendment to the Code of Ordinances pertaining to outdoor merchandise display in the historic district; and

WHEREAS, pursuant to Section 90-55(3), the Planning Board provides a recommendation to the City Commission as to the consistency of a proposed LDR amendment with the Key West Comprehensive Plan; and

WHEREAS, the Planning Board finds that the proposed amendment is consistent with Policy 1-1.2.3 of the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED, by the City of Key West Planning Board:

Section 1. That approval is hereby recommended as to the proposed amendment to section 106-52 of the LDRs.

Section 2. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Chairman of the Planning Board and the City Planner.

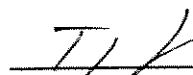
Passed at a meeting held this 16th day of March, 2006.

Authenticated by the Chairman of the Planning Board and the City Planner.


Richard M. Klitenick, Chairman
Key West Planning Board

4/11/2006
Date

Attest:


Ty Symfroski, City Planner

April 11, 2006
Date

Filed with the Clerk


Cheryl Smith, City Clerk

4-12-06
Date